

## JAMES H. CAUSTEN—LEGAL REPRESENTATIVES OF.

MAY 18, 1860.—Ordered to be printed.

Mr. SEDGWICK from the Committee on Naval Affairs, made the following

### REPORT.

*The Committee on Naval Affairs, to whom was referred the memorial of the legal representatives of the late Purser James H. Causten, make the following report:*

That they have had under consideration the memorial of the legal representatives of the late Purser James H. Causten, and after a full investigation of the case, are satisfied that there is no legal or equitable claim on his behalf against the government, and they therefore recommend that the prayer of the petitioner be denied. The committee beg leave to refer to the statement hereto annexed from the Fourth Auditor of the Treasury for the reasons of their report:

TREASURY DEPARTMENT,  
*Fourth Auditor's Office, May 5, 1860.*

SIR: After a protracted delay, arising chiefly from the difficulties and labor involved in the investigation of transactions occurring some forty years ago, I now have the honor to submit the following report upon the claims presented by the legal representatives of the late Purser Joseph H. Causten, referred to in the letter addressed to you on the 22d of March ultimo, by the chairman of the Committee on Naval Affairs of the House of Representatives.

Joseph H. Causten was the purser of the United States brig *Enterprise*, from October, 1817, to the 17th of May, 1821. By the regulations of the Navy Department it was his duty to transmit his accounts quarter-annually. The only account of that vessel ever rendered to this office by him was one made up to the 31st of March, 1819. This return was received in the month of April following. On the 11th of September, 1820, a letter was addressed to him from this office, as follows: "I have to call your attention to the circular from the Secretary of the Navy, under date of 19th December, 1817, requiring pursers to transmit to this office quarterly muster and pay rolls, with an abstract of payments and an account current of receipts and expenditures, approved by the commanding officer. The last returns received from you are to the 31st of March, 1819."

On the 11th of March, 1821, another letter was addressed to him from this office, as follows: "I must again call your attention to the subject of my letter addressed to you at New York, under date of September 11, 1820, the receipt of which you acknowledged, but have not complied with the promise therein made, to transmit rolls and accounts. The frequent application made to this office relative to the accounts of the 'Enterprise,' without my being able to give the least information on the subject, makes it absolutely necessary that I should urge you again to send on the rolls of that vessel."

On the 26th of May, 1821, the commander of the "Enterprise" was written to and requested to have transmitted to this office a statement of the account of Dr. Ward Butler, surgeon's mate, with that vessel, and was informed that the last returns from that vessel were to the 31st of March, 1819, and that Purser Causten had been repeatedly written to on the subject without effect. It appears that it was not until sometime in the month of February, 1822, that the accounts were rendered to this office. The first statement of them, which was made in January, 1825, exhibited a balance due from the purser of \$1,529 22. Subsequently, upon the production of additional vouchers, the account was re-stated, by which the above-mentioned indebtedness was removed, and a balance of \$898 95 was found to be due to the purser. This amount was paid to Mr. James H. Causten, the memorialist in the present case. It is believed that in these several settlements every admissible item was passed to the purser's credit.

In regard to the items for which credit is now claimed, leaving out of view, for the present, those mentioned under the head of "Room money," in the paper endorsed, "Abstracts and dissections," (of which I will speak more particularly hereafter,) I cannot perceive that they constitute any foundation whatever of a claim, in justice or equity, against the United States. So far as any obligation of the United States goes, I am constrained to believe that the claim of the memorialist is entirely without merit.

That the claim for slop clothing is groundless is manifest from the fact that on the settlement of the accounts of the "Enterprise," the amount charged to Purser Causten for slops received by him was \$7,508 56, while the amount passed to his credit for slops issued to the crew was \$10,362 06, besides the sum of \$113 51 for amount transferred to his successor, Purser Perry. It thus appears that there was an excess of credits over debits of \$2,967 01. This difference arises partly from the advance (ten per centum) which he was authorized to charge on the issues, and partly, no doubt, from sums which may constitute a portion of what is now claimed.

In regard to the items of sugar, wine, porter, tea, soap, boots, &c., I have to state that during the period of time in question, and until the act of August 26, 1842, regulating the pay of pursers and other officers of the navy, all such articles were purchased by pursers on and for their own account, and at their own individual risk and responsibility. They were, in truth, the private property of the purser, with which and in which the government had no concern or interest, except to regulate the percentage at which they were permitted to sell them

to the crew, and to the government no responsibility, in any way, attached on such account.

The over-payments for which credit is now claimed were produced by advances made by the purser without authority of law or regulation. He thus placed himself in the position of a private creditor of the parties to whom the advances were made, and it was no part of the duty of the United States to see that those advances were refunded to him or brought to his credit. Yet if this office had been duly advised of these over-payments, it would probably, as a matter of favor, have offered the purser the facilities for collecting them, by directing the sums to be checked from the pay of the parties. But in consequence of the neglect of the purser to render his accounts, as it was his duty to have done, this office had no knowledge of the over-payments until almost, if not quite, all of the parties were out of the service by resignation, death, or otherwise. The United States are, therefore, fully absolved from all liability in regard to them. I find among the papers belonging to Purser Causten's accounts a list of slops and stores on board the "Enterprise" at the date of his detachment. The former were turned over to his successor, and the amount was passed to Purser Causten's credit. The total value of stores so listed did not probably exceed \$150. It appears that a portion of them came to the possession of Purser Perry, and it is presumed that he accounted for them to Purser Causten. What disposition was made of the residue I know not, nor is it incumbent on the government to show, as these stores have no connexion with the purser's public accounts, and as the United States are not responsible therefor. Referring to the claim for the value of sugar and tea alleged to have been issued to the crew of the "Enterprise" as component parts of the ration, I have to state that there is not the slightest evidence that they were ever so issued on board that vessel. It is true that the commissioners' regulations of 1818 proposed to modify the ration by the introduction of those articles, but such alteration having been considered contrary to the act of March 3, 1801, the proposed modification was not carried into effect, except, perhaps, in a few instances and for a very brief period. That it was not carried into effect on board the "Enterprise" is evident from the fact that in the account current of Purser Causten made up to March, 1819, no credit is claimed for such issues. I come now to speak of the items amounting to \$174 43 under the caption of "Room money." The item last named, being for "pilots' subsistence," was disallowed, because it was considered as of a private character.

The remaining five items were rejected because there were no receipts from the parties concerned, or other evidence of payment. The fact that the orders for payment were in the possession of the purser without the receipts, is by no means proof of payment. The presumption would be the other way; for if payment had been made, receipts would assuredly have been taken, and the probability is that they would have been filed with the orders, and in that event all would have been found together. Add to this presumption the fact that one of the parties at least, Midshipman C. A. Branch, was paid, through this office, the item of \$29 98 for his room money, and the evidence against this claim of the memorialist has an accumulated force.

In concluding this report, I will merely advert to the fact that a very large number of the papers which accompany the memorial bear no evidence upon their face of having grown out of the official transactions of the purser, though it is admitted they may have done so. Yet they furnish no evidence whatever of any valid claim against the United States, even in the absence of the facts herein set forth. All the papers transmitted with your reference to this office are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,

A. J. O'BANNON,  
*Fourth Auditor.*

Hon. ISAAC TOUCEY,  
*Secretary of the Navy.*